IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1930 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DY.COLLECTOR & LAQ OFFICER - Appellant(s)
Versus
MUKHTIYAR DIGUBHA BHAKHUBHAI - Defendant(s)

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Appearance :
MR UDAY BHATT A.G.P. for Appellant(s) : 1,
MR PURANI for MR VIMAL M PATEL for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 24/01/2007

ORAL JUDGMENT

1. This is an appeal filed by the Deputy collector and Land Acquisition Officer to challenge the judgment and award made by 5th Joint Civil Judge [S.D.] Bhavnagar

in Reference Case No. 212 of 1991 dated 4th May, 2002. By the said award the respondents have been granted compensation of Rs.28,337.40=00. According to the appellant, the award is on higher side.

2. I have heard Mr. Bhatt learned A.G.P., for the appellant and Mr. Purani learned advocate appearing for Mr. Vimal Patel learned advocate for the respondents. The sole submission of Mr. Bhatt is that the Reference Court has committed an error in granting compensation which is obviously on higher side. Mr. Purani has however, submitted that this is a very small amount and the appeal could be dismissed on the ground of smallness of the amount alone. In support of the same, he has cited the decision of the Division Bench of this Court rendered in the case of Deputy Collector v. Bhikha Gokal dated 29th March, 2000. The Division Bench has observed as under :-

> “It is the consistent practice which is followed by various Division Bench of this Court that wherein claim involved in the Land Reference Cases is less than Rs.35,000=00, appeal should be dismissed on the ground that it involves petty claim. Claimants have lost their only source of livelihood i.e., their agricultural lands which were compulsorily acquired for the public purpose of Uben Irrigation Scheme. If these appeals are admitted and kept for final hearing, it would cause great hardship and financial loss to the claimants because they will have to incur expenses of engaging advocate and other miscellaneous expenses. Therefore, these appeals require to be dismissed on the

> ground of petty claim alone. We, however, make it clear that we have not gone into the merits or de-merits of the References filed by the claimants and this judgment will not be cited as a precedent for the similar appeals filed for the determination of the market value of the acquired lands arising from the very acquisition of Uben Irrigation Scheme."

3. In view of the same, this appeal deserves to be dismissed on the ground of petty claim alone. Hence, the appeal is dismissed.

[Akshay H. Mehta, J.]

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